

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 2022-cv-20712-ALTMAN/Reid

PENINSULA PETROLEUM LIMITED,

Plaintiff,

v.

CI INTERNATIONAL FUELS LLC,

Defendant. /

JOINT SCHEDULING REPORT

In accordance with Federal Rule of Civil Procedure 26(f), Local Rule 16.1, and this Court's Order [D.E. 43], Plaintiff, PENINSULA PETROLEUM LIMITED ("Plaintiff") and Defendant, CI INTERNATIONAL FUELS LLC ("Defendant") met via telephone conference and communicated via email on December 8, 2022 and hereby submit this Joint Scheduling Report:

INFORMATION REQUIRED BY S.D. FLA. LR. 16.1(b)

A. Likelihood of settlement.

It is unknown whether this case will settle. The parties expect to mediate in good faith and keep the settlement dialogue open.

B. Likelihood of the appearance of additional parties.

The parties do not anticipate the appearance of additional parties. Notwithstanding, *see attached* Proposed Joint Scheduling Order setting forth the parties proposed deadline to amend the pleadings.

C. Proposed limits on time.

See attached Proposed Joint Scheduling Order. The parties believe this case should be governed by a Standard Track.

D. Proposals for the formulation and simplification of the issues including the elimination of frivolous claims or defenses, and the number and timing of motions for summary judgment or partial summary judgment.

The parties will work together to simplify any issues when appropriate. *See attached* Proposed Joint Scheduling Order for timing of motions for summary judgment or partial summary judgment.

E. Necessity or desirability of amendments to the pleadings.

See attached Proposed Joint Scheduling Order as to the parties' proposed deadline to amend the pleadings.

F. Possibility of obtaining admissions of fact.

Once the record becomes clearer, the parties will review the case and stipulate to facts and the admissibility of other evidence and will advise the Court as to the same in the parties' Joint Pre-Trial Stipulation.

G. Suggestions for the avoidance of unnecessary proof and of cumulative evidence.

Once the record becomes clearer, the parties will review the case and stipulate to facts and the admissibility of other evidence and will advise this Court as to same in the Parties' Joint Pre-Trial Stipulation.

H. Suggestion on the advisability of referring matters to a Magistrate Judge or master.

See attached Exhibit B hereto.

I. Preliminary estimate of time required for trial.

The Parties estimate between four and five days will be required for trial.

J. Dates for conferences before trial, final pretrial conference, and trial.

See attached Proposed Joint Scheduling Order.

K. Any issues about:

- i. disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced;**

The parties will work in good faith to resolve issues concerning discovery and the production of electronically stored information. The parties will use their best efforts to resolve discovery disputes without the need for unnecessary motion practice before the Court, but respectfully reserve their rights to seek assistance from the Court if needed.

- ii. claims of privilege or of protection as trial-preparation materials, including – if the parties agree on a procedure to assert those claims after production – whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502; and**

The parties agree to use the procedures set forth in Fed. R. Civ. P. Rule 26(b)(5) regarding any claims of privilege or protection for materials asserted as prepared in anticipation of litigation or trial. The parties request that this proposed procedure be adopted in any further orders of this Court during discovery.

- iii. when the parties have agreed to use the ESI Checklist available on the Court's website (www.flsd.uscourts.gov), matters enumerated on the ESI Checklist**

The parties have not reached an agreement to any potential issues at this time but will address any as they arise.

L. Any other information that might be helpful to the court in setting the case for status or pretrial conference.

A response to the Amended Complaint is due on December 22, 2022.

FEDERAL RULE OF CIVIL PROCEDURE 26(f) DISCOVERY PLAN

- A. What changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement of when initial disclosures were made or will be made.**

The parties will make their initial disclosures as per the attached Proposed Joint Scheduling Order.

- B. The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues.**

The parties do not believe that discovery should be conducted in phases or limited to or focused on particular issues.

Before discovery commences, Plaintiff currently believes that it is entitled to summary judgment on Claim I (Breach of Contract) and Claim II (Enforcement of Security Interest contained in Pledge Agreement) of its Amended Verified Complaint and intends to file a motion for the same soon after the matter progresses past the initial pleadings stage. Should facts or circumstances change, Plaintiff reserves its right to instead file its motion for summary judgment on some or all of the Claims contained in the Amended Verified Complaint after discovery is completed and on or before the dispositive motion deadline as provided in the attached Proposed Joint Scheduling Order.

- C. Any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced.**

The parties will work in good faith to resolve issues concerning discovery and the production of electronically stored information. The parties will use their best efforts to resolve discovery disputes without the need for unnecessary motion practice before the Court, but respectfully reserve their rights to seek assistance from the Court if needed.

D. Any issues about claims of privilege or of protection as trial-preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502.

The parties agree to use the procedures set forth in Fed. R. Civ. P. Rule 26(b)(5) regarding any claims of privilege or protection for materials asserted as prepared in anticipation of litigation or trial. The parties request that this proposed procedure be adopted in any further orders of this Court during discovery.

E. What changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed.

At this time, the parties do not propose any changes to the limitations on discovery set out in the Federal Rules of Civil Procedure or the Local Rules.

F. Any other orders that the court should issue under Rule 26(c) or under Rule 16(b) and (c).

The parties do not propose any changes to the limitations imposed under the Federal Rules of Civil Procedure.

Dated: December 9, 2022

Respectfully submitted,

By: /s/ Evan S. Gutwein

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SOUTHERN DISTRICT OF FLORIDA
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PENINSULA PETROLEUM LIMITED,

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[PROPOSED] JOINT SCHEDULING ORDER

February 10, 2023	The Parties shall furnish their initial disclosures under Rule 26.
February 10, 2023	The Parties shall select a mediator and a time, date, and place for the mediation to take place. The Parties shall file motions to amend pleadings or join additional parties.
February 24, 2023	The Parties shall each furnish opposing counsel a written list containing the names and addresses of all fact witnesses who may be called at trial.
May 1, 2023	Plaintiff shall disclose experts, expert witness summaries and reports, as required by Rule 26(a)(2).
May 1, 2023	Defendant shall disclose experts, expert witness summaries and reports, as required by Rule 26(a)(2).
June 5, 2023	The Parties shall exchange rebuttal expert witness summaries and reports, as required by Rule 26(a)(2).
June 30, 2023	The Parties shall complete discovery, including expert discovery.

July 14, 2023

The Parties shall complete mediation and file a mediation report with the Court.

July 31, 2023

The Parties shall file all dispositive pre-trial motions and memoranda of law. The Parties shall also file any *Daubert* motions to strike or exclude expert testimony.

August 14, 2023

The Parties shall file all motions *in limine*.

August 22, 2023

The Parties shall file their joint pretrial stipulation, witness lists, and exhibit lists. The Parties shall also file their proposed jury instructions or findings of fact and conclusions of law.

Aug 29, 2022

Calendar Call

September 5, 2023

Trial

ROY K. ALTMAN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

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**ELECTION TO JURISDICTION BY A UNITED STATES
MAGISTRATE JUDGE FOR FINAL DISPOSITION OF MOTIONS**

In accordance with the provisions of 28 U.S.C. § 636(c), the undersigned party or parties to the above-captioned civil matter hereby voluntarily elect to have a United States Magistrate Judge decide the following motions and issue a final order or judgment with respect thereto:

- | | | |
|-----------------------------------|-----------|-----------------|
| 1. Motions to Dismiss | Yes _____ | No <u> X </u> |
| 2. Motions for Summary Judgment | Yes _____ | No <u> X </u> |
| 3. All Pretrial Motions | Yes _____ | No <u> X </u> |
| 4. Discovery | Yes _____ | No <u> X </u> |
| 5. Other (<i>explain below</i>) | Yes _____ | No <u> X </u> |

12/08/22 /s/ Lori Dilican
(Defendant's counsel)

(Date) /s/ Evan S. Gutwein
(Signature of Defendant's counsel)